

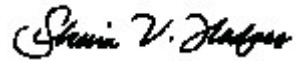
IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
FLORENCE DIVISION

Danny Gerald Davis,)	C/A No.: 4:10-383-TLW-SVH
)	
Plaintiff,)	
)	
vs.)	
)	REPORT AND RECOMMENDATION
United Healthcare Insurance Company,)	
)	
Defendant.)	
_____)	

This matter comes before the court upon Defendant's filing of a suggestion of death of Danny Gerald Davis on September 8, 2010 [Entry #37]. Pursuant to Fed. R. Civ. P. 25, the court issued an order, mailed to decedent's wife at his last known address, advising that the successor, personal representative of Plaintiff's estate, or other appropriate party should file a motion for substitution with the court by December 7, 2010 if he or she wished to proceed on the decedent's behalf. The court further advised that the failure of an appropriate party to file a motion for substitution by December 7, 2010 may result in dismissal of this case.

As no party has filed such a motion for substitution, the undersigned hereby recommends this case be dismissed without prejudice. *See* Fed. R. Civ. P. 25(a)(1) ("If the motion [for substitution] is not made within 90 days after service of a statement noting the death, the action by or against decedent must be dismissed.")

IT IS SO RECOMMENDED.

A handwritten signature in black ink, reading "Shiva V. Hodges". The signature is written in a cursive, flowing style.

December 8, 2010
Florence, South Carolina

Shiva V. Hodges
United States Magistrate Judge

**The parties are directed to note the important information in the attached
“Notice of Right to File Objections to Report and Recommendation.”**